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In the United States District Court
Middle District of Georgia
Athens Division
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FILED
U.S. DISTRICT COURT
ATHENS, GEORGIA
04 OCT 18 PM 1:18

United States of America,
Plaintiff,

U.S. DISTRICT COURT
MIDDLE DIST. OF GEORGIA
ATHENS, GEORGIA

Civil Action
No. 3:04-CV-81 (CDL)

Yadie Peters
CLERK

vs.

Dwight D. York a/k/a Malachi York
Malachi Z. York, Malakai Z. York,
Isa Muhammad, Isa Alihad Mahdi,
and YF Limited Partnership,
Defendants.

ANSWER, DEFENSES AND MOTION TO DISMISS

COMES NOW YF Limited Partnership through its President, Elizabeth Westbrook, and Vice President and Registered Agent, Richelle Davis, one of the defendants in the above-styled action, files these Answer and Defenses in response to Plaintiff's Complaint and shows the Court as follows:

FIRST DEFENSE

The defendant denies any allegations of a fraudulent transfer. The Restitution Order was signed on May 7, 2004 A.D. The transfer of 815 W. Broad St. Athens, GA, the property that the United States of America is seeking to forfeit, was transferred on June 18, 2002 A.D. This was two years and one month prior to the Restitution Order. This transfer was prepared, filed complete with filing fees and done by and through the legal advice of Attorney Ron Thompson of the Garland, Samuel, Loeb firm in Atlanta, GA.

SECOND DEFENSE

The first named defendant has filed a Notice of Appeal to the 11th Circuit Court of Appeals appealing his conviction and restitution and these proceedings should be stayed pending the result of this appeal. This civil case proceeding is a Due Process violation in so far as the Defendant Malachi Z. York has appeals pending, which may exonerate him and therefore render the judgment moot.

THIRD DEFENSE

On May 8, 2002 A.D, the federal government raided the property at 404 Shady Rd in Eatonton, GA and 155 Mansfield Court in Athens, GA. At the time of these raids \$440, 000 cash was

seized by the United States Government. At the time of the first named defendant's arrest \$10,000 cash was seized off the defendant's person along with jewelry appraised and valued at \$50,000. In the Restitution Order signed by the District Judge C. Ashley Royal states, ***"The evidence at trial also showed that more than \$400,000.00 in cash was found and seized in the bedrooms of the Defendant's Athens and Eatonton residences at the time of his arrest. Although the witnesses of the Defendant contended at trial that this money belonged to the Nuwaubian organization and not to the Defendant personally, this testimony is contradicted by the testimony of Defendant's own accountant and Defendant's tax returns showing that the organization operated as a sole proprietorship, and the defendant considered all of its income to be his personal income. The information before the Court establishes by a preponderance of the evidence that Defendant has the ability to make immediate payment of the restitution amount."***

Also on February 17, 2004 A.D. DRI Properties III, L.L.C, filed a civil lawsuit against YF Limited Partnership, the United States of America and the City of Atlanta, 1:04-CV-0434. This civil action resulted out of a foreclosure sale of Houston Square Apartments located at 400 John Wesley Dobbs Ave in Atlanta, GA, which resulted in surplus fund in the amount of \$237,770.99. The United States Government through its Attorney Bernard Snell filed the United States Answer to Petition for Interpleader on May 18, 2004 A.D. In this the United States Government request for the Court to put the surplus funds towards the United States District Court Order of Restitution in the amount of \$566,000.00.

The property that the United States Government is petitioning to seize, 815 West Broad Street, has a fair market value of \$500,000 according to the Athens Clark County Tax Commissioner.

When you add together the assets seized by the federal government, the surplus funds claimed from civil action 1:04-CV-0434 and the fair market value of 815 W. Broad Street, the amount of money to be applied to the federal debt of the first named defendant is \$1,237,770.99, which is well over the amount of restitution. Therefore it is unnecessary to seize the Clarke County property described in the Plaintiff's Complaint. The Plaintiff is bordering on malicious prosecution in its efforts to collect the restitution amount.

FOURTH DEFENSE

The United States Government contends the transfer of property by Defendant to YF Limited Partnership was fraudulent but offers no evidence such a transfer was in fact fraudulent. Plaintiff's assertion is guided by pure speculation but offers no concrete evidence as defined by the Federal Rules of Evidence.

FIFTH DEFENSE

Plaintiff offers no proof that YF Limited Partnership is the alter ego of the defendant. Such claim for the alleged restitution did not arise after had transferred the Clarke County Property to YF Limited Partnership. So there was not even the appearance of fraudulent intent on the part of the Defendant and his General Partners. Defendant and his partners further have the right to seek protection from avarice by creditors in the form of the Federal Bankruptcy Law.

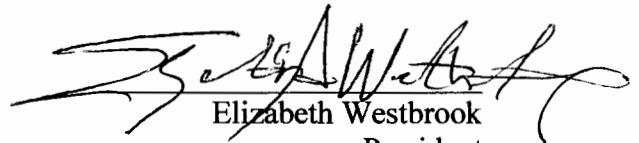
SIXTH DEFENSE

At all times Attorney Ron Thompson of the Garland, Samuel, and Loeb firm, which was the firm that was originally retained for the first named defendant's criminal case, instructed, advised, and filed all paperwork concerning the transfer of this property from the first named defendant and YF Limited Partnership. At the legal advise of Attorney Ron Thompson, who holds an active license to practice law in the State of Georgia, prepared and filed all paperwork on behalf of Dale York Brown pertaining to the transfer of property. Neither Dale York Brown, Richelle Davis nor Elizabeth Westbrook were aware of any alleged fraudulent transfer. This transfer was done through the legal advise of Attorney Ron Thompson, who testified to that on June 30, 2004 during the Ancillary Hearing held at the Macon Federal Courthouse.


SEVENTH DEFENSE

The property at 815 West Broad Street is the registered address of the Egiptian Church of Christ, Inc., registered with the Secretary of State having a perpetual existence. Making that property a Church and immune from such prosecution and forfeiture.

WHEREFORE, without waiving any defense at law or in equity, this defendant responds by denying all of the allegations contained in said complaint. Defendant respectfully request the instant case be dismissed, and the aforementioned seizures be applied to defendants restitution, with excess refunded to the defendant as prescribed by law and whatever other equitable relief the Court deems necessary and proper.



Elizabeth Westbrook
President



Richelle Davis
Vice President
Registered Agent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing YF Limited Partnership, through its President Elizabeth Westbrook and its Vice President and Registered Agent, Richelle Davis, Defense, Answer and Motion to Dismiss has been mailed on this 18th day of October, 2004 A.D., In a properly addressed envelope with sufficient postage affixed to ensure delivery upon the following:

Bernard Snell
Assistant United States Attorney
State Bar No. 665692
PO Box 1702
Macon, GA 31202

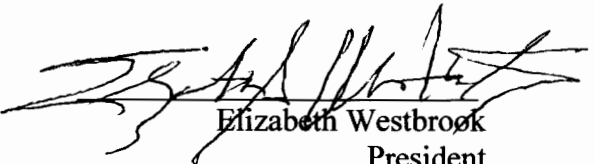
Attorney Matthew Robinson
Attorney At Law
11331 Grooms Road, Suite 3000
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Malachi Z. York
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Leavenworth, KS 66048

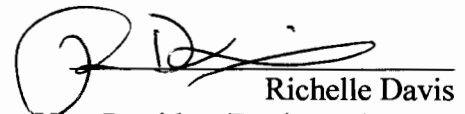
Attorney Adrian Patrick
1044 Baxter Street
Athens, GA 30606

Attorney Zulu Malik Shabazz
4043 Clay Place
NE Washington, DC 20019

This ____ day of October, 2004 A.D.



Elizabeth Westbrook
President



Richelle Davis
Vice President/Registered Agent

YF Limited Partnership
PO Box 7036
Athens, GA 30604